

VIA OVERNIGHT DELIVERY

March 5, 2008

Federal Communications Commission
Ms. Marlene Dortch
445 12th Street NW
Washington DC 20554

RE: *Competitive Clauses*

Dear Ms. Dortch:

As a Consultant to the MDU technology industry, I represent PCOs who serve over 250,000 multifamily units throughout the U.S. Please include for FCC 07-51.

As you examine the exclusivity clause issue regarding PCOs, I believe it is important to recognize that the right-of-entry agreements signed by most PCOs today include detailed “competitive clauses.” These clauses may vary among operators but generally include the following themes:

- a) each PCO is required to maintain a competitive product, service, features, and pricing, as compared to other Operators (often including franchise and ILECs) in their market. If their product, service, features, or pricing are “not” competitive, the exclusive right of entry agreement can be terminated by the Owner.
- b) “competitiveness” clauses can be quite detailed including specifics such as actual programming, digital features, broadband speeds, voice options, as well as bundled pricing standards. In other words, the PCO is committing to maintaining a competitiveness during the term of the agreement on numerous features, with the level of performance being increased each year.
- c) the PCO is also committing to service-level standards, which often include such contract components as response time for installs, outage response time, customer service availability, web interface to manage

accounts, and bi-lingual service reps. These standards too can increase over time as the market gets more competitive.

Ms. Marlene Dortch

Page 2

Cont'd

All of these “competitive” clauses are included in PCO agreements to require the Operator to remain competitive for a long period of time. Yes, the agreement may be exclusive, but it is conditional on maintaining a high level of performance on products, service, features and pricing.

As the market continues to become more competitive, we have seen these types of clauses appear in the majority of right-of-entry agreements we review. This leads me to believe that while property owners enjoy using “exclusive agreements with PCOs,” they do so with a “competitive clause” which is pro-consumer, and creates an environment that is positive for the subscriber.

Respectfully submitted,

Bryan J. Rader

CEO,

Bandwidth Consulting